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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
9 **LAS VEGAS DIVISION**

10 REBECCA GOTTSCHALK,

11 Plaintiff,

12 v.

13 FIRST CONTACT LLC,

14 Defendant.

15 **Case No.: 2:20-cv-1307**

16 **COMPLAINT AND DEMAND FOR**  
**JURY TRIAL**

17 **1. TCPA, 47 U.S.C. § 227 *et. seq.***  
**2. FDCPA 15 U.S.C. § 1692 *et. seq.***  
**3. Intrusion Upon Seclusion**

18 **(Unlawful Debt Collection Practices)**

19 **COMPLAINT FOR DAMAGES**

20 Plaintiff, Rebecca Gottschalk (“Plaintiff”), through her attorneys, alleges the  
following against First Contact LLC (“First Contact” or Defendant):

21 **INTRODUCTION**

22 1. Count I of Plaintiff’s First Amended Complaint is based upon the Telephone  
23 Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. The TCPA is a federal  
24 statute that broadly regulates the use of automated telephone equipment. Among  
25

1 other things, the TCPA prohibits certain unsolicited marketing calls, restricts the  
2 use of automatic dialers or prerecorded messages, and delegates rulemaking  
3 authority to the Federal Communications Commission (“FCC”).  
4

5 2. Count II of Plaintiff’s Complaint is based upon the Fair Debt Collection  
6 Practices Act (“FDCPA”) 15 U.S.C. § 1692. The FDCPA is a federal statute that  
7 broadly prohibits persons from engaging in abusive and/or deceptive debt  
8 collection practices.  
9

10 3. Count III of Plaintiff’s Complaint is based upon the Invasion of Privacy -  
11 Intrusion upon Seclusion, as derived from § 652B of the Restatement (Second) of  
12 Torts. § 652B prohibits an intentional intrusion, “physically or otherwise, upon the  
13 solitude or seclusion of another or his private affairs or concerns... that would be  
14 highly offensive to a reasonable person.”  
15

16 **JURISDICTION AND VENUE**

17 4. Subject matter jurisdiction of the Court arises under 47 U.S.C. § 227 et seq.  
18 and 28 U.S.C. 1331.  
19

20 5. Venue is proper pursuant to 28 U.S.C. 1391(b)(1) in that a substantial part  
21 of the events or omissions giving rise to the claim occurred in this District.  
22

23 6. Defendants transact business here; personal jurisdiction is established.  
24

25 **PARTIES**

26 7. Plaintiff is a natural person residing in the State of Pennsylvania.  
27

1 8. Defendant First Contact LLC is a debt collector with its principal place of  
2 business located 200 Central Avenue, St. Petersburg, FL 33701. Defendant places  
3 calls for Credit One Bank, whose principal place of business is located at 6801  
4 South Cimarron Road, Las Vegas, NV 89113. Defendant poses as if they are Credit  
5 One Bank agents.

6 9. Upon information and belief, Defendant is a call center collector who acts  
7 independently from Credit One Bank using their own agents and equipment to  
8 contact Plaintiff.

10 11. Defendants acted through their agents, employees, officers, members,  
12 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
13 representatives, and insurers.

14 15. **FACTUAL ALLEGATIONS**

16 11. Defendant was attempting to collect an alleged debt owed by Plaintiff on  
17 behalf of Credit One Bank, N.A. (“Credit One”)

18 12. Upon information and belief, Defendant has a vendor agreement with non-  
19 party Credit One to attempt to collect the alleged debt.

20 21. In or around October of 2018, Defendant began placing calls to Plaintiff’s  
22 cellular phone, ending in 0607, in an attempt to collect an alleged debt.

23 24. The calls placed by Defendants originated from the following number(s):  
25 (412) 785-2914, (412) 785-2868, (412) 785-2861, (412) 785-2921, (412) 785-

1 2810, (878) 999-8857, (412) 785-2817, (412) 291-9528, (412) 291-9578, (412)  
2 291-9689, (412) 291-9541, (412) 291-9702, (412) 291-9542, (412) 291-9592,  
3 (412) 785-1313, (412) 785-1344, and (412) 785-1282.  
4

5 15. Upon information and belief, each time Defendant would call Plaintiff they  
6 falsely represented themselves as Credit One.  
7

8 16. On or about October 3, 2018, at 11:30 a.m., Plaintiff answered a collection  
9 call from (412) 785-2810; Plaintiff heard a pause before the collection began to  
10 speak, indicating the use of an automated telephone dialing system.  
11

12 17. Defendant informed Plaintiff that it was attempting to collect a debt relating  
13 to her Credit One account.  
14

15 18. Plaintiff explained she could not make a payment because she was in the  
16 process of switching jobs and unequivocally revoked consent to be called any  
17 further.  
18

19 19. Despite Plaintiff's request not to be contacted on her cellular phone any  
20 further, Defendant continued to call Plaintiff.  
21

22 20. On or about December 17, 2018, Plaintiff answered a second collection from  
23 Defendant; Plaintiff heard a pause before the collection began to speak, indicating  
24 the use of an automated telephone dialing system.  
25

26 21. Defendant informed Plaintiff that it was attempting to collect a debt relating  
27 to her Credit One account.  
28

1 22. Plaintiff explained her situation again to Defendant and for the second time,  
2 unequivocally revoked consent to be called any further.  
3

4 23. Between October 3, 2018 and December 17, 2018, Defendant called Plaintiff  
5 no less than **FOUR-HUNDRED AND TWENTY-FOUR (424)** times, with  
6 Defendants calling Plaintiff one (1) to nine (9) times a day and occasionally up to  
7 eight (8) times in one day. On twenty-four (24) separate days, Defendant called  
8 Plaintiff seven (7) times in a day, and on fifteen (15) separate days, Defendants  
9 called Plaintiff six (6) times in a day.  
10

11 24. Defendants' calls were excessive and done with the purpose of attempting to  
12 harass Plaintiff into making a payment on the Account. Furthermore, Defendants'  
13 tactic of switching amongst a myriad of phone numbers was done in order to trick  
14 Plaintiff into answering the calls.  
15

16 25. Defendants were aware that Plaintiff was dealing with financial issues, but  
17 willfully ignored her situation and her request for Defendant to stop its campaign  
18 of harassing phone calls.  
19

20 26. Upon information and belief, non-party Credit One does not place any  
21 outbound collection calls to its customers.  
22

23 27. Upon information and belief, all collection calls made to Plaintiff were made  
24 by Defendant.  
25

//  
26

1 28. Upon information and belief, Defendant placed the collection calls on behalf  
2 of Credit One, posing to be Credit One and hiding their true identity.  
3

4 29. Defendants misrepresented and deceived Plaintiff as to their identity.  
5

6 30. Defendants placed telephone calls to Plaintiff without a meaningful  
disclosure as to their identity.  
7

8 31. Upon information and belief, Defendant intentionally and knowingly refrain  
from disclosing its true identity so as to try and avoid the requirements of the  
9 FDCPA.  
10

11 32. Upon information and belief, Defendant is separate and distinct entities from  
12 Credit One.  
13

14 33. Upon information and belief, Defendants are in the business of collecting  
15 debts owed or due or asserted to be owed or due another.  
16

34. Defendant's conduct was done willfully and knowingly.  
17

18 35. Upon information and belief, Defendant was calling third parties, including  
friends and family, in an effort to coerce Plaintiff to make a payment on the  
19 Account.  
20

21 36. Defendant's barrage of calls to Plaintiff's cellphone caused constant  
22 disruption and distraction to her daily life, as well as embarrassment and  
23 humiliation because her phone would ring constantly while she was with family  
24 and friends.  
25

1 37. As a result of Defendant's conduct, Plaintiff has sustained actual damages  
2 including but not limited to, emotional and mental pain and anguish.  
3

4 **COUNT I**  
5 **Violations of the TCPA, 47 U.S.C. § 227**

6 38. Plaintiff incorporates by reference all of the above paragraphs of this  
7 Complaint as though fully stated herein.

8 39. Defendant violated the TCPA. Defendant's violations include, but are not  
9 limited to the following:

10 a. Within four years prior to the filing of this action, on multiple occasions,  
11 Defendants violated TCPA 47 U.S.C. § 227 (b)(1)(A)(iii) which states in  
12 pertinent part, "It shall be unlawful for any person within the United States .  
13 . . to make any call (other than a call made for emergency purposes or made  
14 with the prior express consent of the called party) using any automatic  
15 telephone dialing system or an artificial or prerecorded voice — to any  
16 telephone number assigned to a . . . cellular telephone service . . . or any  
17 service for which the called party is charged for the call.  
18

19 b. Within four years prior to the filing of this action, on multiple occasions,  
20 Defendants willfully and/or knowingly contacted Plaintiff at Plaintiff's  
21 cellular telephone using an artificial prerecorded voice or an automatic  
22 telephone dialing system and as such, Defendants knowing and/or willfully  
23 violated the TCPA.  
24

1 40. As a result of Defendant's violations of 47 U.S.C. § 227, Plaintiff is entitled  
2 to an award of five hundred dollars (\$500.00) in statutory damages, for each and  
3 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B). If the Court finds that  
4 Defendants knowingly and/or willfully violated the TCPA, Plaintiff is entitled to  
5 an award of one thousand five hundred dollars (\$1,500.00), for each and every  
6 violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).  
7  
8

9 **COUNT II**  
10 **(FDCPA 15 U.S.C. § 1692 *et. seq.*)**

11 41. Plaintiff incorporates the foregoing paragraphs as though the same were set  
12 forth at length herein.

13 42. The FDCPA prohibits the “use of any business, company, or organization  
14 name other than the true name of the debt collector's business, company, or  
15 organization.” 15 U.S.C. § 1692e(14).

16 43. The FDCPA also requires that in its initial communication with a consumer,  
17 a debt collector disclose that the “debt collector is attempting to collect a debt and  
18 that any information obtained will be used for that purpose ....” 15 U.S.C.A. §  
19 1692e(11). *See Costa v. Nat'l Action Fin. Servs.*, 634 F. Supp. 2d 1069, 1075 (E.D.  
20 Cal. 2007) (citing *Hosseinzadeh v. M.R.S. Assocs., Inc.*, 387 F. Supp. 2d 1104,  
21 1112 (C.D. Cal. 2005) finding “‘meaningful disclosure’ presumably requires that  
22 the caller must state his or her name and capacity, and disclose enough information  
23 so as not to mislead the recipient as to the purpose of the call or the reason the  
24  
25  
26

1 questions are being asked.”)

2 44. Defendants violated 15 U.S.C. § 1692e(14) and 15 U.S.C. § 1692e(11) each  
3 time they contacted Plaintiff because they failed to truthfully and correctly identify  
4 themselves. The Defendants did not inform Plaintiff that they were collecting the  
5 alleged debt *on behalf* of Credit One Bank, they identified themselves *as* Credit  
6 One Bank.

7 45. Additionally, the FDCPA prohibits a debt collector from “causing a  
8 telephone to ring or engaging any person in telephone conversation repeatedly or  
9 continuously with intent to annoy, abuse, or harass any person at the called  
10 number.” 15 U.S.C.A. § 1692d.

11 46. The Defendant incessantly called Plaintiff despite the clear revocation of her  
12 consent. The frequency of Defendants’ phone calls is violative of the FDCPA on  
13 its own.

14 47. Defendant’s actions, as described above, were done willfully and  
15 intentionally.

16 48. As a result of the foregoing violations of the FDCPA, Defendant is liable to  
17 Plaintiff for actual damages, statutory damages, and attorney’s fees and costs.

18 //

19 //

20 //

## COUNT III

### Invasion of Privacy (Intrusion upon Seclusion)

49. Plaintiff incorporates herein by reference all of the above paragraphs of this complaint as though fully set forth herein at length.

50. Defendant violated Plaintiff's privacy. Defendant's violations include, but are not limited to, the following:

- a. Defendant intentionally intruded, physically or otherwise, upon Plaintiff's solitude and seclusion by engaging in harassing phone calls in an attempt to collect on an alleged debt despite requests for the calls to cease.
- b. Defendant's conduct would be highly offensive to a reasonable person as Plaintiff received calls that interrupted Plaintiff's work and sleep schedule.
- c. Defendant's acts, as described above, were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

51. As a result of Defendant's violations of Plaintiff's privacy, Defendant is liable to Plaintiff for actual damages. If the Court finds that the conduct is found to be egregious, Plaintiff may recover punitive damages.

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff respectfully requests judgment be entered against Defendant for the following:

A. Declaratory judgment that Defendant violated the TCPA and FDCPA;

1 B. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §  
2 227(b)(3)(C);  
3  
4 C. Statutory damages pursuant to 15 U.S.C. §1692k(a)(2)(B);  
5  
6 D. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);  
7  
8 E. Actual and punitive damages for intruding upon Plaintiff's seclusion;  
9  
F. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. 1692k(3);  
10  
G. Awarding Plaintiff any pre-judgment and post-judgment interest as may be  
11 allowed under the law; and  
12  
H. Any other relief that this Honorable Court deems appropriate.

12 **DEMAND FOR JURY TRIAL**  
13

14 Please take notice that Plaintiff demands a trial by jury in this action.

15 RESPECTFULLY SUBMITTED,  
16

17 **Price Law Group, APC**

18 Dated: July 14, 2020

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